

PT 01-22

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

FIRST BAPTIST CHURCH)		
)	A.H. Docket #	00-PT-0053
Applicant)		
)	Docket #	99-14-39
v.)		
)	Parcel Index #	08-07-13-409-004
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Richard A. Kuiken, attorney at law, appeared on behalf of the First Baptist Church.

Synopsis:

The hearing in this matter was held on November 22, 2000, at the Department of Transportation Building, 1100 Eastport Plaza Drive, Collinsville, Illinois on November 22, 2000, to determine whether or not Clinton County Parcel Index No. 08-07-13-409-004 qualified for exemption from real estate taxation for all or part of the 1999-assessment year.

Rev. Bill C. Chambers, pastor of the First Baptist Church (hereinafter referred to as the "Applicant" or the "Church"), Mrs. Virginia Herman, the treasurer of the Church, and Mr. David Herman, a member of the board of deacons of the Church were present and testified on behalf of the Church.

The issues in this matter include: first, whether the Church is a religious organization;

secondly, whether the Church owned this parcel during the 1999-assessment year; and lastly, whether the Church used this parcel as a parsonage during the 1999-assessment year.

Following the submission of all of the evidence and a review of the record, it is determined that the Church is a religious organization that owned this parcel and the residence thereon during the 1999-assessment year. It is also determined that Rev. Chambers used this parcel and the residence thereon as a parsonage during the period July 13, 1999, through December 31, 1999. It is further determined that the Church has continuously used the house on this parcel as a parsonage for the past eighteen years.

Consequently it is determined that this parcel qualified for exemption as a parsonage for the 1999-assessment year.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the “Department”) in this matter, namely that the parcel here in issue did not qualify for exemption for the 1999-assessment year, was established by the admission in evidence of Department’s Ex. Nos. 1 through 8A.

2. The Church was incorporated by affidavit on January 17, 1968, pursuant to the Religious Corporation Act. (Appl. Ex. No. 3)

3. During 1999 the Church held worship services on Sunday mornings at 10:30 A.M. and again on Sunday evenings at 7:00 P. M. and also on Wednesday evenings at 7:00 P.M. (Tr. pp. 16 & 17)

4. The Church during 1999 had approximately 180 members and an average attendance at Sunday morning worship services of approximately 65 or 70. (Tr. p. 16)

5. The Church acquired the parcel here in issue by a warranty deed dated September 10, 1963. This parcel is improved with a one-story brick residence with no basement. This residence has a one car attached garage. (Dept. Ex. Nos. 2 & 2A, Appl. Ex. No. 2)

6. Rev. Chambers, his wife, two daughters, and a son moved into the house on this parcel on July 13, 1999. (Tr. pp. 8 & 24)

7. The witnesses for the Church other than Rev. Chambers testified that all of the pastors of the Church have lived in the house on this parcel, during the eighteen years that the witnesses have lived in Carlyle. (Tr. pp. 27, 29, 33, & 34)

8. The church building is approximately 17 or 18 blocks from this parcel. Rev. Chambers estimated that he could travel from this parcel to the church building in approximately three to five minutes. (Tr. p. 13)

9. Rev. Chambers does not pay rent for the use of this house. Rev. Chambers and his family do not have any ownership interest in this house. The Church pays the utilities, maintenance, and insurance on the house on this parcel. (Tr. pp. 24-26)

10. Rev. Chambers has an office at the church. However he frequently brings work home with him and works on it in the evening at the house on this parcel. (Tr. p. 17 & 19)

11. Rev. Chambers has his computer in the living room of the house on this parcel. Rev. Chambers uses this computer when he works on church activities in the evening. When he is studying or working on sermons he spreads out his books and materials on the dining room table. There is a small library with religious resource books and concordances in the master bedroom of the house on this parcel. (Tr. pp. 17-19, Appl. Ex. No. 2)

12. Rev. Chambers receives telephone calls both at the church and at the house on this parcel. Church members call Rev. Chambers at this house both during the day and in the evening. Church members sometimes come to the house for counseling. The board of deacons of the Church meets at the house occasionally. (Tr. pp. 10, 11, & 16)

13. The house on this parcel is used by Rev. Chambers for church and religious activities as well as for family activities. (Tr. p. 12)

14. When Rev. Chambers was considering moving to Carlyle and becoming the pastor of the Church it was his expectation that he and his family would live in the parsonage. He did not feel that he could be the full time pastor of the Church if he and his family did not live in this house and use it as the parsonage, as he felt that the salary for the pastor was low. (Tr. pp. 9 & 15)

15. When Rev. Chambers completed the Parsonage Questionnaire he answered no to the question which reads as follows: “Is the minister required as a condition of employment or association, to reside in the parsonage?” At the hearing he stated that he had answered that way because he wasn’t sure that he was formally required to live in this house. (Tr. p. 15, Dept. Ex. No. 2C)

16. The Church would probably not be able to afford a full time pastor if they did not have a parsonage for the pastor to live in. It is the expectation of the congregation that the pastor and his or her family will live in the parsonage. (Tr. p. 29)

17. In Carlyle rental property is scarce and expensive especially if one has a family. Consequently, it is a benefit to both the Church and the pastor that the Church has this parcel and the house thereon, which is used as the parsonage. (Tr. p. 35)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Concerning property used for religious purposes, 35 **ILCS** 200/15-40 provides as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their

vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore very clear that the burden of proof that the parcel here in issue qualifies for exemption is on the Church.

The Church was incorporated by affidavit for religious purposes pursuant to the Religious Corporation Act. The Church held three religious worship services weekly during 1999. I find from the evidence of record that the Church satisfies the requirements relied on by the United States Supreme Court in U.S. v. Seeger, 380 U.S. 163 (1965). Therefore, I conclude that the Church is a religious organization. I conclude based on the warranty deed dated September 10, 1963, that the Church owned this parcel during all of the 1999-assessment year.

In the case of McKenzie v. Johnson, 98 Ill.2d 87 (1988), the Illinois Supreme Court first held that the so-called parsonage exemption was constitutional. The Court then went on to state

that a parsonage qualifies for an exemption if it reasonably and substantially facilitates the aims of religious worship or instruction or is used for such purposes. In view of the facts that Rev. Chambers uses portions of the living room, dining room, and bedroom as an office where he studies and writes sermons, that he receives and originates church related telephone calls there, that he does counseling in the house, and that church committees including the board of deacons have met there, I conclude that this residence reasonably and substantially facilitates the aims of religious worship or instruction and is used for such purposes.

In the case of Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App.3d 1055 (5th Dist. 1990) the Court held that a vacant parsonage and carport qualified for exemption for about a year after the pastor retired where the parsonage had been used for religious purposes for 40 years. The witnesses testified that this parcel had been used as a parsonage when the Church had a pastor for at least the last 18 years. I consequently conclude that this parcel qualified for exemption for the entire 1999-assessment year.

I therefore recommend that Clinton County Parcel Index No. 08-07-13-409-004 and the improvements thereon be exempt from real estate taxation for the 1999-assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
March 7, 2001